

CRAVATH, SWAINE & MOORE

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ONE CHASE MANHATTAN PLAZA

INTERSTATE COMMERCE COMMISSION

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RECORDATION NO. 9882-B Filed 1425

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RECORDATION NO. 9882-C Filed 1425

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December 4, 1978

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Date DEC 4 1978

Fee \$1000

CC Washington, D.C.

Allied Chemical Corporation

Lease Financing

Dated as of October 15, 1978

9-3/4 Conditional Sale Indebtedness

Due 1998

Dear Sir:

Pursuant to 49 U.S.C. §11303(a) (formerly Section 20c of the Interstate Commerce Act), I enclose herewith on behalf of Allied Chemical Corporation, for filing and recordation, counterparts of the following:

1(a) Conditional Sale Agreement dated as of October 15, 1978, between The Connecticut Bank and Trust Company and each of ACF Industries, Incorporated and Pullman Incorporated (Pullman Standard Division);

(b) Agreement and Assignment dated as of October 15, 1978, between Metropolitan Life Insurance Company and each of ACF Industries, Incorporated and Pullman Incorporated (Pullman Standard Division);

2(a) Lease of Railroad Equipment dated as of October 15, 1978, between Allied Chemical Corporation and The Connecticut Bank and Trust Company;

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Counterparts - Large Jones

(b) Assignment of Lease and Agreement dated as of October 15, 1978, between The Connecticut Bank and Trust Company and Metropolitan Life Insurance Company.

The addresses to the parties of the aforementioned agreements are:

Lessee:

Allied Chemical Corporation,
P. O. Box 1219 R,
Morristown, New Jersey 07960

Vendee-Lessor:

The Connecticut Bank and Trust Company,
One Constitution Plaza,
Hartford, Connecticut 06115

Vendor-Assignee:

Metropolitan Life Insurance Company,
One Madison Avenue,
New York, New York 10010

Builder-Vendor:

ACF Industries, Incorporated,
750 Third Avenue,
New York, New York 10017

Pullman Incorporated,
(Pullman Standard Division),
200 South Michigan Avenue,
Chicago, Illinois 60604

The equipment covered by the aforementioned agreements consists of 600 100-ton covered hoppers with gravity outlet gates, trough hatches; 50 100-ton covered hoppers with gravity outlet gates, round hatches; and 64 100-ton covered hoppers with pneumatic outlet gates, round hatches, bearing the road numbers of the lessee ACTX 944000-944599; ACTX 944800-944849 and ACTX 945611-945674 and also bearing the legend "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, as Amended".

Enclosed is our check for \$100 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

Steven M. Berzin

Steven M. Berzin
As Agent for
Allied Chemical Corporation

H. G. Homme, Jr., Acting Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

BY HAND
Encls.
79A

RECORDATION NO. 9882 ^B Filed 1425

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DEC 4 1978 - 11 50 AM
INTERSTATE COMMERCE COMMISSION.

LEASE OF RAILROAD EQUIPMENT

Dated as of October 15, 1978

between

ALLIED CHEMICAL CORPORATION

and

THE CONNECTICUT BANK AND TRUST COMPANY, as Trustee

Lease of Railroad Equipment

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LEASE OF RAILROAD EQUIPMENT dated as of October 15, 1978, between ALLIED CHEMICAL CORPORATION, a New York corporation (the "Lessee"), and THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, acting not in its individual capacity but solely as Trustee (the "Lessor") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with Eighth HFC Leasing Corporation (the "Owner").

WHEREAS pursuant to a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Lessor, the Owner, HFC Leasing Inc. and Metropolitan Life Insurance Company (hereinafter, with its successors and assigns, called the "Vendor"), the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with ACF Industries, Incorporated and Pullman Incorporated (Pullman Standard Division) (the "Builders"), wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule 1 hereto (the "Equipment");

WHEREAS the Builders are assigning their respective interests in the CSA to the Vendor;

WHEREAS the Lessor is assigning its interest in this Lease to the Vendor pursuant to an Assignment of Lease and Agreement dated as of the date hereof (the "Lease Assignment");

WHEREAS upon certain conditions set forth in Paragraph 9 of the Participation Agreement, the Vendor, the Lessor, the Owner and the Lessee will enter into a deposit agreement with The First National Bank of Chicago substantially in the form attached to the Participation Agreement as Exhibit D thereto (the "Deposit Agreement"); and

WHEREAS the Lessee desires to lease such number of units of the Equipment as are delivered and accepted under the CSA (the "Units") at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter

mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, any abatement, reduction or setoff due, or alleged to be due, by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the CSA, or against either Builder or the Owner or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, any prohibition or restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding involving the Lessee, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. The Lessor will cause the Units to be delivered to the Lessee at the point within the United States of America at which the Units are delivered to the Lessor under the CSA. Upon such delivery, the Lessee

will cause an employee of the Lessee to inspect the same and, if such Unit is found to be acceptable, to accept delivery of such Unit, and the Lessee shall execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the CSA pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease, in arrears, interim and 40 consecutive semiannual payments. The interim payments for each Unit subject to this Lease are payable on each Closing Date (as defined in the CSA) and on January 2, 1980. The interim rental payment payable hereunder on any Closing Date shall be an amount equal to the amounts payable by the Lessor pursuant to clause (iii) of subparagraph (a) of the third paragraph of Article 4 of the CSA. In addition, the interim rental payment due on the second Closing Date shall be in an additional amount equal to the product of the Purchase Price (as defined in the CSA) for each Unit settled for on the first Closing Date multiplied by .025685% for each day from and including the first Closing Date to but not including the second Closing Date. The interim rental payment due on January 2, 1980, shall be an amount equal to the product of the Purchase Price for each Unit then subject to this Lease multiplied by .025685% for each day elapsed from the later of the second Closing Date, or the date on which such Unit was settled for under the CSA, to but not including January 2, 1980. The 40 semiannual payments are payable on January 2 and July 2 in each year, commencing July 2, 1980, to and including January 2, 2000, and shall each be in an amount equal to 3.58845% of the Purchase Price of each such Unit then subject to this Lease. In addition to the foregoing rentals, the Lessee agrees to pay to the Lessor, as additional rentals, amounts equal to (i) the payments to be made by the Lessor pursuant to Paragraph 3 of the Deposit Agreement on the dates the Lessor is required to make such payments, (ii) on the Closing Date in respect of any Unit for which the Lessor has paid Lining Costs pursuant to the first paragraph

of Paragraph 8 of the Participation Agreement, interest at the rate of 9-3/8% per annum computed on the amount of such Lining Costs from the date of payment thereof to such Closing Date, and (iii) on January 2, 1980, any payments to be made by the Lessor pursuant to the proviso of the first sentence of Paragraph 11 of the Participation Agreement, and the Lessor agrees to apply any rentals received pursuant to clauses (i) and (iii) above for the purposes referred to therein.

The Lessee and the Lessor agree that the rentals payable hereunder and the Casualty Value percentages set forth in Schedule 2 hereto and the Termination Value percentages set forth in Schedule 3 hereto will be adjusted upward or downward to reflect (A) any amendment to, or change in, the Internal Revenue Code of 1954, as amended (the "Code"), the income tax regulations thereunder or published administrative interpretations of the Code or such regulations, which change or amendment (i) is enacted or adopted after November 13, 1978, and on or prior to December 31, 1979 and (ii) does not prevent this Lease from being treated as a lease of the Units between the Owner and the Lessee, (B) the delivery of a total number of Units in any month or months differing, by more than fifty Units, from the number of Units, as set forth in Schedule 1 hereto, assumed to be delivered in such month or months and (C) the delivery of any Unit or Units after June 30, 1979. Such adjustments will be effective as of the rental payment date next following such amendment or change, or such difference in delivery schedule, as the case may be, and will be made in such manner as will result, in the Owner's reasonable judgment, in preserving for the Owner both the after-tax rate of return and the after-tax cash flow that would have been realized by the Owner had such amendment or change, or such difference in delivery schedule, as the case may be, not occurred, based on the rates of Federal, state and local taxes on, based on, or measured by, net income in effect from time to time. Notwithstanding anything herein, the rentals payable and Casualty Value and Termination Value percentages will never be less than those amounts and percentages required to enable the Lessor to satisfy its obligations under the CSA. The Owner shall furnish the Lessee and the Vendor prior to the effective date of such adjustments with a notice setting forth in reasonable detail the computations and methods used in computing the adjustments.

Notwithstanding anything contained herein, if any change in or amendment to the Code, the income tax regulations thereunder or published administrative interpretations of the

Code or of such regulations (which change or amendment (i) is enacted or adopted after November 13, 1978, and prior to December 31, 1979 and (ii) does not prevent this Lease from being treated as a lease of the Units between the Owner and the Lessee) would result in an increase in the semiannual rental payments to an amount greater than 5.580% of the Purchase Price of the Units subject to this Lease, the Lessee shall have the option to purchase all but not fewer than all of the Units, such option to be exercised on or after January 2, 1980, but not later than February 1, 1980, nor earlier than 30 days after written notice of the Lessee's intent to exercise such option is received by the Lessor and the Vendor (the date of exercise of such option being hereinafter called the "Purchase Date"). On the Purchase Date the Lessee will pay to the Lessor (i) the greater of (A) the aggregate Fair Market Sale Value (as defined in § 13 of this Lease) of the Units subject to this Lease on such date or (B) the aggregate Purchase Price of the Units on such date, plus interest computed at the rate of 9-3/8% per annum from and including the Closing Date in respect of each Unit to and including the Purchase Date on the Purchase Price of such Unit; and (ii) all rental payments due on or prior to the Purchase Date (including the installment of rent due on such date or, if no installment of rent shall be due on such date, then the rent accrued to such date prorated from the last rental payment date). Upon such payment, the Lessor will convey to the Lessee, without recourse, representation or warranty whatsoever except with respect to the nonexistence of liens created by the Lessor upon the Units (other than liens created by the Lessor in connection with the transactions contemplated by the Participation Agreement, the CSA, this Lease and the Lease Assignment), all of the Lessor's right, title and interest in and to the Units. Upon compliance with the terms of this paragraph, the obligation of the Lessee to make rental payments under this Lease for all periods after the Purchase Date shall cease and the term of this Lease shall terminate effective as of the Purchase Date; provided, however, that the obligations of the Lessee under §§ 6, 7, 9 and 16 hereof shall survive such termination of this Lease. The Lessor shall not be required to sell the Units pursuant to the option described herein unless on the Purchase Date it receives in immediately available funds the full amount payable pursuant to this paragraph on such date.

If any rental payment date referred to above is not a business day the rental otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institu-

tions in Chicago, Illinois, Hartford, Connecticut, or New York, New York, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee (i) as long as any of the CSA Indebtedness (as defined in the CSA) is outstanding, to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this § 3 and in § 7 hereof, to the extent such payments are required to satisfy the obligations of the Lessor under the CSA, to the Vendor, at the address and by the method specified in the Consent and Agreement, dated as of the date hereof, attached to the Lease Assignment (the "Consent"), for the account of the Lessor, and (ii) subject to the provisions of the Lease Assignment, so long as no event of default specified in Article 15 of the CSA shall have occurred and be continuing, to pay any balance promptly to the Lessor at the address set forth herein or at such other place as the Lessor shall specify in writing unless and until the Vendor shall otherwise direct the Lessee in writing; provided, however, that the Lessee shall make all payments provided for in § 6, 9 and 16 hereof directly to the person entitled to receive them, as provided in the Lease Assignment. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Vendor or the Lessor, as the case may be, by 11:00 a.m., New York time, on the date such payment is due. From and after the date of payment in full of all obligations of the Lessor under the CSA, all such payments shall be made directly to the Lessor.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 3 (third paragraph), 7, 10, 13 and 14 hereof, shall expire on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee under §§ 6, 7, 9, 14 and 16 hereof shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights and remedies of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein; provided, however, that, so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Payments (as defined in the Lease Assignment) are being made to and

received by the Vendor in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession and use provided under § 12 hereof.

§ 5. Identification Marks. The Lessee (at its own expense) will cause each Unit to be kept numbered with the road number set forth in Schedule 1 hereto or, in the case of any Unit not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, as Amended", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed and deposited, and that no other filing, deposit or giving of notice with any Federal, state or local government or agency thereof is necessary to protect the rights of the Vendor and the Lessor in such Units. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax payable by the Lessor and, to the extent that the Lessor receives credit therefor against its United States Federal income tax liability, any foreign income tax, and other than the aggregate of all state or local taxes measured by net income and value added taxes in lieu of such net income taxes, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the CSA, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as such imposition remains unpaid and Lessee is contesting in its own name and in good faith and by appropriate legal or administrative proceedings such impositions, or the Lessor is required to contest such impositions as provided in this § 6, and the nonpayment thereof does not, in the reasonable opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or of the Lessor or the Vendor under the CSA. The Lessee agrees to give the Lessor notice of any such contest brought in the Lessee's name prior to or within 30 days after institution thereof, and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall pay the Lessor on presentation of an invoice therefor if the Lessor shall have been legally liable with respect thereto (as

evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof, and the Lessor agrees to give the Lessee written notice promptly after it first obtains knowledge of the making of such charge or levy, and agrees to take such other action as may reasonably be requested by the Lessee for the purpose of contesting payment or obtaining refund of all or a portion of such imposition, as hereinafter provided in this § 6.

In the event that the Lessor shall become obligated to make any payment to either Builder or the Vendor or otherwise pursuant to Article 6 of the CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor to fulfill completely the Lessor's obligations pursuant to said provision; provided, however, that the Lessor shall have contested (if required to do so under this § 6) such impositions in good faith and to the extent permitted under the CSA; and provided, further, that the Lessee shall not thereby become obligated to make any payment on behalf of the Lessor or any other person of the type it is not obligated to make to the Lessor by reason of the exceptions set forth in the first sentence of this § 6.

In the event any returns, statements or reports with respect to impositions involving any Unit are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units and as shall be satisfactory to them or, where not so permitted, will notify the Lessor and the Vendor of such requirement and will prepare and deliver such reports to them within a reasonable period of time prior to the time such reports are to be filed in such manner as shall be satisfactory to them.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

In the event the Lessee may be prohibited by law or is impaired from contesting in its own name any imposition covered by this § 6 in respect of which the Lessee would otherwise be required to make payments to the Lessor pursuant hereto, the Lessor shall, upon request and at the expense of

the Lessee, take all legal and other appropriate action reasonably requested by the Lessee to contest such imposition. The Lessor shall not be obligated to take any such action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein. The Lessee shall indemnify and hold the Lessor (in both its individual and fiduciary capacities) harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred as a result of, or incident to, any action taken by the Lessor or Lessee under this § 6. The Lessee shall be entitled to any refund (plus interest, if any) received by the Lessor or the Lessee in respect of any imposition paid by the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances with respect to, or furnish other evidence satisfactory to the Lessor of, the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions.

The amount which the Lessee shall be required to pay with respect to any imposition which is subject to indemnification under this § 6 shall be an amount sufficient to restore the Lessor to the same net after-tax rate of return and after-tax cash position, after considering the effect of such payment and such imposition on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that the Lessor would have had or been in had such imposition not been imposed.

§ 7. Maintenance; Casualty Occurrences; Termination; Insurance. The Lessee agrees that, at the Lessee's own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep all of the Units which are subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for interchange service under the applicable rules of the American Association of Railroads (or any of its successors).

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of the CSA or for an indefinite period, but only when such indefinite period shall have exceeded the term of the CSA, or by any political subdivision of the United States of America or any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit and the Lessee shall pay all costs of removal of such Unit and of freight to the place designated pursuant to § 14 hereof.

In the event of a Casualty Occurrence with respect to any Unit that takes place not earlier than seven years and one day after the beginning of the term of this Lease with respect to such Unit (as defined in § 4), and provided that no Event of Default (as defined in § 10 hereof) or event which after notice or lapse of time or both would become an Event of Default hereunder shall have occurred and be continuing, the Lessee may elect, in lieu of payment to the Lessor of the Casualty Value of the Old Unit (as herein defined), but not later than the date on which the Casualty Value for such Old Unit would otherwise be payable by the Lessee, to substitute another unit (hereinafter called the "New Unit") hereunder for the Unit that has suffered the Casualty Occurrence (herein called the "Old Unit"); provided, however, that (i) the New Unit shall be a lined unit when the Old Unit was a lined unit and shall be an unlined unit when the Old Unit was an unlined unit; (ii) the new Unit shall have been built not earlier than the date of delivery under this Lease of the Old

Unit; (iii) the actual fair value of the New Unit shall be no less than the actual fair value of the Old Unit immediately before the Casualty Occurrence; (iv) the New Unit shall have an estimated remaining useful life of not less than the estimated remaining useful life of the Old Unit; (v) the New Unit shall be of the same type and capacity as the Old Unit; (vi) the New Unit shall be free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person (except as created by the CSA and this Lease); (vii) the New Unit shall comply with all applicable laws, regulations, ordinances and rules; (viii) the New Unit shall be numbered and marked in accordance with § 5 hereof; (ix) the Lessee shall pay all expenses and taxes, including all sales taxes, use taxes and taxes measured by income, incurred by the Lessor, the Vendor or the Lessee upon or in connection with the substitution of the New Unit for the Old Unit; (x) for the purpose of computation of the rental payments hereunder in respect of the New Unit and of any Casualty Value or Termination Value in respect thereof, the Purchase Price of the New Unit under this Lease shall be deemed to be the Purchase Price of the Old Unit hereunder; (xi) the substitution of the New Unit for the Old Unit shall not in and of itself cause any of the rental payments payable hereunder to be decreased in any way; (xii) the New Unit shall be deemed to be a Unit for the purposes of this Lease and the transactions contemplated hereby; (xiii) the Lessee shall deliver to the Vendor (if the Lessor shall not have discharged all of its obligations under the CSA) and the Lessor a certificate of an authorized officer of the Lessee dated as of the date of the substitution of the New Unit for the Old Unit to the effect that each of the conditions set out in clauses (i) through (viii) of this sentence in respect of such substitution has been satisfied, to the effect that no Event of Default or event which, after notice or lapse of time or both, would become an Event of Default hereunder has occurred and is continuing, to the effect that the substitution has been duly authorized by the Lessee, setting forth the date of manufacture of the New Unit and the original cost thereof, and stating that the Lessee intends to use the New Unit in its business; (xiv) the Lessee shall deliver to the Vendor (if the Lessor shall have not discharged all of its obligations under the CSA) and the Lessor an opinion of counsel for the Lessee that title to the New Unit is vested in the Lessor free and clear of all claims, security interests or other encumbrances by or in favor of any person (except as created by the CSA and this Lease), that such New Unit has become a Unit under and subject to the terms of this

Lease, that all necessary filings and recordations have been effected to protect the interests of the Vendor in the New Unit, and as to such other matters incident to the substitution as the Lessor or the Vendor may reasonably request; (xv) the Lessee shall execute and deliver such documents as may be required by law or may reasonably be requested by the Lessor or the Vendor, at the Lessee's expense, to transfer title to the New Unit to the Lessor, subject to the rights of the Vendor under the CSA, as provided in the third paragraph of Article 7 of the CSA; and (xvi) the Lessee will do and perform any acts and will execute, deliver, file, register and record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all instruments required by law or reasonably requested by the Lessor or the Vendor for the purposes of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective rights in the New Unit. Immediately upon the substitution of the New Unit for the Old Unit in accordance with the terms of clauses (i) through (xvi) of the above proviso, title to the Old Unit shall vest in the Lessee and the Lessor will, if requested by the Lessee, execute and deliver to the Lessee, at the expense of the Lessee, appropriate instruments confirming such passage to the Lessee of all the Lessor's right, title and interest in and to the Old Unit.

The Casualty Value of each Unit as of the rental payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule 2 hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease at the expiration of the original or any extended term hereof and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be 26% of the Purchase Price of such Unit (unless such termination occurs after the term of this Lease has been extended pursuant to § 13 hereof), in which case the Casualty Value shall be determined as provided in § 13 hereof. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit.

The Lessor hereby irrevocably appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable

on an "as is, where is" basis, such disposition and all expenses related thereto to be at Lessee's cost and expense. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

In the event of the requisition for use (which is not a Casualty Occurrence) by the United States Government or by any political subdivision of the United States of America or by any other governmental entity (hereinafter called the "Government") of any Unit during the term of this Lease, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or § 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease, but the Lessee shall in all other respects comply with the provisions of said § 11 or § 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Lessor.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee shall, at its sole expense, obtain and maintain in full force and effect from the time any Unit is accepted by the Lessee and throughout the term of this Lease and during any storage period as provided in § 11 or 14 hereof, on each Unit from time to time subject hereto, with such insurers as are reasonably satisfactory to the Lessor and the Vendor (i) insurance in the amount of at least \$5,000,000

per occurrence against all risks of physical loss of, or damage to, the Units and (ii) public liability and property damage insurance in the amount of at least \$20,000,000 per occurrence covering liability for personal injuries, death or property damage resulting from the ownership, maintenance, use or operation of the Units; provided, however, that in the case of property insurance, the Lessee, at its option, may self-insure the Units to the extent it typically self-insures similar equipment and to the extent such self-insurance, including any program of risk assumption, is consistent with prudent industry practice. All insurance policies required hereby shall, without limitation of the foregoing, provide (i) that the policy may not be canceled or materially altered without thirty (30) days' prior written notice to the Lessor and the Vendor and (ii) contractual liability coverage with respect to third party personal injury, including death, and property damage arising out of the use or maintenance of the Units. The Lessee shall furnish to the Lessor prior to the acceptance date of any Unit and upon request throughout the term of this Lease evidence of insurance satisfactory to the Lessor and the Vendor showing the existence of the insurance required hereunder. The property insurance referred to in this § 7 may be written with such deductible amounts as the Lessee deems appropriate but not in excess of deductible amounts applicable to property insurance carried by the Lessee on other railroad rolling stock owned or operated by the Lessee and, in any event, only to the extent such deductible amounts are consistent with prudent industry practice.

In the event of failure on the part of the Lessee to provide and furnish any of the aforesaid insurance, the Lessor or the Vendor, upon notice to the Lessee, may, but shall not be obligated to, procure such insurance and the Lessee shall, upon demand, reimburse the Lessor and the Vendor for all reasonable expenditures made by the Lessor or the Vendor for such insurance, together with interest thereon computed at the maximum rate of interest permitted by law, but not more than 10-3/8% per annum, from the date of the Vendor's or the Lessor's payment until reimbursed by the Lessee.

If the Lessor shall receive any insurance proceeds (other than on policies for which the Lessor has paid premiums) or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee's having made payment of the Casualty Value in respect

of such Unit or to a New Unit having been substituted for such Unit pursuant to the third paragraph of § 7 hereof, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to such Unit having suffered a Casualty Occurrence (computed, in the case of a substitution of a New Unit therefor, as of the date the Casualty Value would have been paid by the Lessee had no substitution occurred) and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor from the Lessee's insurance coverage in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

In the event that the Lessee shall, in its reasonable judgment, determine that any one or more of the following groups of Units: (a) all Lined HDPE Units (as so identified and defined in Schedule 1 hereto) remaining under this Lease, (b) all Soda Ash Units (as so identified and defined in Schedule 1 hereto) remaining under this Lease, or (c) all Ammonium Sulfate Units (as so identified and defined in Schedule 1 hereto) remaining under this Lease, has become economically obsolete in the Lessee's business, the Lessee shall have the right, at its option and on at least 180 days' prior written notice to the Lessor, to terminate (which act shall hereinafter be called a "Termination") this Lease as to such group of Units or groups of Units as of any succeeding rental payment date specified in such notice (such termination date so specified being hereinafter called the "Termination Date"); provided, however, that (i) the Termination Date shall not be earlier than January 2, 1990, nor later than January 2, 2000, (ii) no Event of Default or other event which after the lapse of time or notice or both would become an Event of Default shall have occurred and be continuing on such date and (iii) on the Termination Date all Units in such group of Units or groups of Units shall be in the condition required for redelivery pursuant to § 14 hereof. For the purposes of this paragraph, Units may be considered economically obsolete in the Lessee's business, if, but not by way of limitation, by reason of the application thereto of laws, rules or regulations of the United States of America or of any State or political subdivision thereof pertaining to the protection of the environment or human health, the Lessee shall be required to expend material amounts to modify such Units to comply with such laws, rules or regulations.

During the period from the 90th day after the giving of such notice until the fifth business day preceding the Termination Date, the Lessee shall use its best efforts to obtain bids for the purchase of each such Unit, and the Lessee shall at least five business days prior to such Termination Date certify to the Lessor the amount of each such bid and the name and address of the party (which shall not be a corporation, other entity or individual affiliated with the Lessee or any party from whom the Lessee or any such affiliate intends thereafter to lease such Unit) submitting such bid. On the Termination Date the Lessor shall sell each such Unit for cash to the bidder who shall have submitted the highest bid prior to the Termination Date. The total sale price realized at each such sale shall be retained by the Lessor.

On such Termination Date, the Lessee shall pay to the Lessor with respect to each such Unit an amount equal to (i) the excess, if any, of the Termination Value (as hereinafter defined) for each such Unit computed as of such date over the sale price of any such Unit so sold after the deduction of all expenses incurred by the Lessor in connection with such sale and (ii) the rental payment with respect to each such Unit due on such Termination Date. The Termination Value of each such Unit as of the Termination Date on which payment is to be made shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule 3 hereto opposite such date. In no event shall the aggregate amount of sale proceeds retained by the Lessor and payments of rental and Termination Value received by the Lessor as aforesaid be less than the Settlement Value (as defined in the CSA) with respect to such Units as of such Termination Date.

If no sale of any Unit subject to a Termination shall occur on the Termination Date with respect thereto as provided above, this Lease shall continue in full force and effect without change unless and until the Lessee pays the Lessor an amount equal to the Termination Value of such Unit as of such Termination Date and any rental payment due with respect thereto on such Termination Date and returns any unsold Unit to the Lessor pursuant to § 14 hereof.

Upon the receipt by the Lessor of the amounts above described, the obligation of the Lessee to pay rent pursuant to § 3 hereof in respect of such Unit on each rental payment date shall continue to and including the

Termination Date but shall then terminate. The Lessor shall be under no duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action or incur any cost or expense in connection with any sale other than to transfer or to cause to be transferred all of the Lessor's right, title and interest in and to such Unit to the purchaser named in the highest bid certified by the Lessee to the Lessor as above provided. Any such sale shall be free and clear of all of the Lessee's rights to such Unit, but otherwise shall be made without warranties other than against the Lessor's acts.

If the Lessee shall exercise its option to effect a Termination, the Lessor may, notwithstanding such election by the Lessee, by written notice to the Lessee given within 90 days after the termination notice is given to the Lessor and upon satisfaction and discharge of the Lessor's obligations under the CSA with respect to any such Unit, elect to retain such Unit, in which case the Lessee shall not be obligated to pay the Termination Value to the Lessor. In the event the Lessor shall so elect to retain such Unit and delivers to the Lessee evidence of the satisfaction and discharge of the Lessor's obligations under the CSA with respect to such Unit, the Lessee shall deliver such Unit to the Lessor in accordance with the provisions of § 14 hereof.

§ 8. Reports and Inspections. On or before April 30 in each year, commencing with the calendar year 1979, the Lessee will furnish to the Lessor, the Owner and the Vendor (a) an accurate statement (i) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (ii) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the CSA have been preserved or replaced and (iii) setting forth a description of the insurance in effect with respect to the Units pursuant to § 7 hereof, and (b) a certification of insurance coverage from the Lessee's independent broker stating the amounts, including deductible

amounts, of such insurance in effect. The Lessor, at its sole cost and expense, shall have the right, by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor shall request and as may be reasonably necessary to confirm to the Lessor the existence and proper maintenance of the Units during the continuance of this Lease. The Lessee shall promptly notify the Lessor and the Vendor of any material changes or any material proposed changes of which the Lessee has knowledge in its insurance coverage in effect with respect to the Units pursuant to § 7 hereof.

The Lessee shall furnish to the Lessor the reports required to be furnished pursuant to Paragraph 10 of the Participation Agreement.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR), OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against either Builder under the provisions of Article 13 of the CSA or of Annex A of the CSA or any other claims the Lessor may have against a Builder or others relating to the quality or performance of any Unit, any of its components or its design or construction, whether such claims be based in contract (including breach of warranty) or tort; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the

following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units and with all applicable interchange rules of the Association of American Railroads (or any of its successors), to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal hereof, such laws or rules require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements to the Units during the term of this Lease. Any additions, modifications and improvements made by the Lessee which are readily removable without causing material damage to the Units shall be owned by the Lessee and may be removed by the Lessee at any time during the term of this Lease or any renewal hereof and prior to the return of such Units to the Lessor pursuant to § 11 or § 14 hereof, except additions,

modifications and improvements required to maintain each Unit's eligibility for interchange service under the rules of the Association of American Railroads (or any of its successors) or to comply with the provisions of the first paragraph of § 7 or the first sentence of this paragraph. Any additions, modifications and improvements made to any Unit by the Lessee (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor.

The Lessee agrees to indemnify, protect and hold harmless the Lessor (in both its individual and fiduciary capacities), the Owner and the Vendor from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for strict liability in tort and claims in which negligence or breach of warranty or contract of such indemnified party is alleged) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of, or the occurrence of a default, an event of default or an Event of Default under, the CSA, the Participation Agreement, this Lease or any sublease entered into pursuant to § 12 hereof, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 14 of this Lease, or the transfer of title to the Units by the Vendor pursuant to any provision of the CSA. The indemnities arising under this paragraph shall continue in full force and effect with respect to all events, facts, conditions or other circumstances occurring or existing prior to the expiration or termination of the term of this Lease and return of the Units as provided in § 11 or § 14 of this Lease, notwithstanding such expiration, termi-

nation and return; provided, however, that the foregoing indemnification shall not apply to any failure of payment of the principal of or interest on the CSA Indebtedness and shall not be deemed to operate as a guaranty of the residual value of any Unit. No person shall be entitled to indemnification hereunder for losses, damages, injuries, liabilities, claims or demands arising out of such person's wilful misconduct or gross negligence. The amount the Lessee shall be required to pay with respect to any of its obligations under this paragraph shall include a payment to the indemnified party sufficient to restore such party to the same position, after considering the effect of such payment on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that the indemnified party would have been in had the liability or expense indemnified against not been incurred.

The Lessee further agrees to indemnify, protect and hold harmless the Vendor and each Builder as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor or such Builder because of the use in or about the construction or operation of any of the Units of any article or material specified by the Lessee and not manufactured by such Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by such Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to each Builder of any claim known to the Lessee as a result of which liability may be charged against such Builder under the CSA.

Except as provided in § 7 hereof, the Lessee shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any or all of the Units.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership of the Units by the Lessor or the interest of the Vendor therein or the leasing thereof to the Lessee.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (an "Event of Default") shall occur and be continuing:

(a) default shall be made in payment of any amount provided for in § 3 or § 7 of this Lease and such default shall continue for five business days, or default shall be made in payment of any other amount provided for in this Lease and such default shall continue for ten days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof and shall fail or refuse to cause such assignment or transfer to be canceled and to recover possession of such Units within 15 days after written notice from the Lessor or the Vendor to the Lessee demanding the same;

(c) any of the representations and warranties of the Lessee contained in the Participation Agreement shall be or have been incorrect in any material respect as of the date when made and continue to be incorrect, or default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement or in the Consent, in either case continuing for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied; or

(d) the occurrence of any of the following:

(i) Involuntary Bankruptcy Proceedings--a receiver, liquidator or trustee of the Lessee or of a major part of its property is appointed by court order and such order remains in effect for more than 60 days; or the Lessee is adjudicated bankrupt or insolvent; or a major part of its property is sequestered by court order and such order remains in effect for more than 60 days; or a petition is filed against the Lessee under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liqui-

dation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within 60 days after such filing;

(ii) Voluntary Petitions--the Lessee files a voluntary petition in bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(iii) Assignments for Benefit of Creditors, etc.--the Lessee makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due or its willingness to be adjudicated a bankrupt, or consents to the appointment of a receiver, trustee or liquidator of the Lessee or of all or a major part of its property;

then, in any such case, the Lessor, at its option, may:

(x) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including amounts sufficient to restore the Lessor to the same net after-tax rate of return and after-tax cash position, after considering the effect of the receipt of such damages and amounts on its United States Federal income tax and state and local taxes or franchise taxes based on net income, that the Lessor would have realized or would have been in had such breach not occurred; or

(y) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall terminate as though this Lease had never been made, but the Lessee shall remain liable under this Lease to the extent that this Lease provides that the obligations of the Lessee under this Lease shall survive a termination or expiration thereof; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, sell, operate, lease to others and enjoy the same free from any right of the Lessee to use

the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time after deduction of all reasonably estimated expenses and costs in connection with such sale; provided, however, that, in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clause of this paragraph (y) with respect to such Unit, shall have a right to recover from the Lessee, and the Lessee shall pay to the Lessor, in addition to any amount payable to the Lessor by the Lessee pursuant to §§ 6, 9 and 16 hereof, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale (after deduction of all reasonable expenses and costs in connection with such sale).

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and shall be liable for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall

be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives (i) any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law and (ii) any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf. The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the events set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such events or similar events.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessor may, upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Lessor, take, or cause to be taken by its agent or agents, immediate possession of each of the Units, and may remove the same from possession and use of the Lessee or any other person and for such purpose may enter upon the premises of the Lessee or any other premises where the Units may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities of the Lessee, subject to all mandatory requirements of due process of law.

If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, the standard for ordinary wear and tear to be that wear and tear which would have been suffered by units of the same type which had carried at all times, and over the same period of time, commodities of the kind ordinarily carried in units of such type by common carriers; provided, however, that the lining of each lined Unit so delivered shall have, at the time of delivery to the Lessor pursuant to this § 11, a remaining useful life of not less than eight months. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic

and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee or any of its affiliates or, at the expense of the Lessee, on any other storage tracks, as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on any lines of railroad or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store, insure and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Units in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day after such termination to the date of delivery of such Unit to the Lessor an amount equal to the amount, if any, by which (x) the product of (i) a fraction the numerator of which is $9\frac{3}{8}\%$ and the denominator of which is 360, and (ii) the Purchase Price of such Unit exceeds (y) the actual earnings received by the Lessor with respect to such Unit for each such day; such payment shall not affect the obligation of the Lessee to redeliver the Units pursuant to the first sentence of this paragraph.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use; Discharge of Liens. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7, 9, 10 and 16 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns.

So long as the conditions specified in the proviso to the last paragraph of § 4 hereof are satisfied, the Lessee shall be entitled to the possession, quiet enjoyment and use of the Units, provided that the Lessee may not, except with the Lessor's prior written consent, which shall not be unreasonably withheld, (a) sublease any of the Units to any other person for a period in excess of one year or (b) permit any of the Units to be used by any other person, except for usage thereof in normal interchange service, any such usage to be subject to all the terms and conditions of this Lease and the CSA; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the continental United States of America. Except as set forth in the last paragraph of this § 12, the Lessee may not assign this Lease to any other person. No sublease or usage permitted by the foregoing shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

Any sublease so consented to by the Lessor may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every such sublease shall be subject to the rights and remedies of the Vendor under the CSA and the Lessor under this Lease in respect of the Units

covered by such sublease upon the occurrence of an event of default thereunder or an Event of Default hereunder and no such sublease shall relieve the Lessee of its obligations to the Lessor under this Lease.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance resulting from claims against the Lessor or the Vendor not related to the ownership or leasing of, or the security title of the Vendor to, the Units) which may at any time be imposed on or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein; except that this covenant will not be breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the opinions of the Lessor and the Vendor, adversely affect the title, property or rights of the Lessor hereunder or the Vendor under the CSA.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in all but not less than all the Units or possession of all but not less than all the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Participation Agreement, the Consent and the Deposit Agreement, if any) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or, with the prior written consent of the Lessor and the Vendor, property of the Lessee related to the operation of the Units or a portion thereof; provided, however, that (i) such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and will have a consolidated net worth determined in accordance with generally accepted accounting principles not less than that of the Lessee immediately prior to such transaction

and (ii) in the case of any such acquisition of less than all or substantially all of the property of the Lessee, such acquisition shall not alter in any way the Lessee's obligation to the Lessor and the Vendor hereunder which shall be and remain those of a principal and not a surety.

§ 13. Renewal Options and Purchase Options.

(a) Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee shall have the option to extend the term of this Lease by written notice delivered to the Lessor not less than six months nor more than one year prior to the end of the original term of this Lease, such extension to be on the conditions herein set forth:

(i) Such option to extend the Lease shall apply to one or more of the following groups of Units: (A) all but not fewer than all of the Lined HDPE Units then remaining under this Lease, (B) all but not fewer than all of the Ammonium Sulfate Units then remaining under this Lease and (C) a group consisting of no less than 200 of the Soda Ash Units then remaining under this Lease.

(ii) Such option shall be to extend this Lease for a period of one year, two years, or three years; such period to commence on the scheduled date of expiration of the original term of this Lease. In the event that the Lessee elects to extend this Lease for a period of two years under this provision, the Lessee shall have the option to extend this Lease upon the expiration of such period of two years, for an additional period of one year. In the event that the Lessee elects to extend this Lease for a period of one year after the date of original termination of this Lease, the Lessee shall have the option, upon the expiration of such period of one year, to extend this Lease for an additional period of either two years or one year. If the Lessee has elected to extend this Lease for a period of one year after the date of original termination of this Lease and has exercised its option to extend for an additional period of one year, the Lessee shall have the option to extend for a further additional period of one year.

(iii) In the event that the Lessee elects to exercise its option to extend this Lease, as provided for in this § 13, each such extension shall be on the same terms and conditions as are contained in this Lease, except (x) as

to the amount of rentals which shall be at a "Fair Market Rental" (as defined in this § 13) payable semiannually in arrears, (y) that the Casualty Value of each Unit on the first day of such extended term shall be equal to the Fair Market Sale Value (as defined in this § 13) of such Unit on such date and thereafter such Casualty Value shall be reduced on a straight line basis over the estimated remaining useful life of such Unit, all as determined by the procedures hereinafter established and (z) that no Termination shall be permitted during any extended term of this Lease.

(b) In this event that the Lessee has exercised its option to extend this Lease for a total of three years by any of the procedures enumerated in clause (a)(ii) above, the Lessee shall have the option to continue to extend this Lease as to any Units remaining under this Lease (as extended) on the conditions set forth in clauses (a)(i) and (iii) above; provided, however, that each such further extension shall be for a period of two years.

(c) Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee shall have the option to purchase the Units, by written notice delivered to the Lessor not less than six months nor more than one year prior to the end of the original term of this Lease, such purchase to be upon the conditions herein set forth:

(i) The option to purchase the Units shall apply to one or more of the following groups of Units: (A) all but not fewer than all of the Lined HDPE Units then remaining under this Lease, (B) all but not fewer than all of the Ammonium Sulfate Units then remaining under this Lease and (C) a group consisting of no less than 200 of the Soda Ash Units then remaining under this Lease.

(ii) The Lessee shall pay to the Lessor a purchase price for the Units purchased equal to 43% of the Purchase Price thereof, payable at the end of the original term of this Lease.

(d) In the event that the Lessee has exercised its option to extend this Lease for a total of three years by any of the procedures enumerated in clause (a)(ii) above, the Lessee shall have the option to purchase one or more of the groups of Units as defined in § 13(c) (i) hereof at the expira-

tion of such three-year period at a purchase price equal to Fair Market Sale Value, determined pursuant to this § 13.

(e) At any time that the Lessee has the option to extend this Lease pursuant to § 13(b) above, the Lessee shall have the option to purchase one or more of the groups of Units remaining under this Lease (as extended), on the conditions set forth in (d) above.

(f) Upon payment of the purchase price of the Units by the Lessee, as provided for in (c), (d) or (e) above, the Lessor shall, upon request of the Lessee, execute and deliver to the Lessee or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor), for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such forms as may reasonably be requested by the Lessee, all at the Lessee's expense.

(g) Fair Market Rental shall be agreed upon by the Lessor and the Lessee or determined as provided in the next paragraph, and Fair Market Sale Value and estimated remaining useful life shall be agreed upon by the Lessor and the Lessee or determined as provided in the next paragraph, on the basis of (and shall be equal in amount to) the rental or sale value which would obtain in an arm's length transaction between an informed and willing lessee or vendee, as the case may be (other than a lessee currently in possession), and an informed and willing lessor or vendor, as the case may be, under no compulsion to lease or sell, as the case may be, and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental or sale value but there shall be excluded any rental value or sale value attributable to additions, modifications and improvements which the Lessee is entitled to remove pursuant to § 9 hereof; provided, however, that Fair Market Rental shall be determined as provided in this sentence on the basis of the term and other terms and conditions of the lease being considered; and provided, further, that, in the determination of Fair Market Sale Value, the existence of the Lessee's purchase options pursuant to paragraphs (c), (d) and (e) of this § 13 shall be disregarded. Fair Market Rental, Fair Market Sale Value and estimated remaining useful life of the Units

shall be determined upon the assumption that the Units shall have been maintained in accordance with the provisions of § 7 hereof.

(h) If after 45 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, as provided in paragraphs (a) and (b) of this § 13, or to exercise its purchase option, as provided in paragraph (c), (d) or (e) of this § 13, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of Fair Market Rental, Fair Market Sale Value or estimated remaining useful life, as the case may be, such Fair Market Rental or Fair Market Sale Value or such remaining useful life, as the case may be, shall be determined in accordance with the provisions of paragraph (g) of this § 13 by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of Fair Market Rental, Fair Market Sale Value or estimated remaining useful life by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine Fair Market Rental, Fair Market Sale Value or estimated remaining useful life, as the case may be, of the Units subject to the proposed extended lease term or sale within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of a single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be final and binding upon the parties hereto. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except

as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental, Fair Market Sale Value and estimated remaining useful life, unless these are agreed upon by the Lessor and the Lessee as provided for in paragraph (g) of this § 13, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

§ 14. Return of Units upon Expiration of Lease Term. If the Lessee does not exercise its purchase option pursuant to § 13 hereof, the Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original term or an extended term of this Lease with respect to any Unit which the Lessee does not purchase or re-lease pursuant to § 13 hereof, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee (at not more than 15 locations) as the Lessee may reasonably designate, and permit the Lessor to store such Unit on such tracks for a period not exceeding five months and transport the same, at any time within such five-month period, to any purchaser, lessee or user thereof, all as directed by the Lessor, the movement and storage of such Units to be at the expense (except as hereinafter set forth) and risk of the Lessee. In the event that freight costs shall be payable by the Lessee for the delivery, during such five-month period, of Units from such storage tracks of the Lessee to any purchaser, lessee or user of such Units, the Lessee shall pay such freight costs, as follows: (A) if the purchaser, lessee or user is a railroad, from the Lessee's storage tracks to the nearest point of interchange on such railroad's lines or (B) if the purchaser, lessee or user is not a railroad, from the Lessee's storage tracks to the nearest rail facility of such purchaser, lessee or user; provided, however, that if such rail facility should be located in excess of 750 miles from the Lessee's storage tracks where the Units to be delivered are stored, freight costs for any distance (i) in excess of 750 miles and within the continental United States shall be paid one-half by the Lessee and one-half by the Lessor and (ii) in excess of 750 miles and outside the continental United States shall be paid by the Lessor. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and

condition as when originally delivered to the Lessee, ordinary wear and tear excepted, the standard for ordinary wear and tear to be that wear and tear which would have been suffered by units of the same type which had carried at all times, and over the same period of time, commodities of the kind ordinarily carried in units of such type by common carriers; provided, however, that the lining of each Lined Unit so delivered shall have, at the time of delivery to the Lessor pursuant to this § 14, a remaining useful life of not less than eight months, and (ii) except for additions, modifications and improvements which the Lessee is entitled to remove under the provisions of § 9 of this Lease, meet all operating standards then in effect under the applicable rules of any governmental agency or other organization with jurisdiction provided that the Lessee shall not be required to make any additions, modifications and improvements which would not be required of the Lessee if the Lessee continued to operate the Units. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which (x) the product of (i) a fraction the numerator of which is $9\frac{3}{8}\%$ and the denominator of which is 360, and (ii) the Purchase Price of such Unit exceeds (y) the actual earnings received by the Lessor on such Unit for each such day.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the CSA and any assignment hereof or thereof to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the

purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective rights in the Units, or for the purpose of carrying out the intention of this Lease, the CSA and the assignments hereof and thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this § 15, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSA and the assignments hereof and thereof shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Income Taxes. (a) Loss of Assumed Tax Benefits. If

(i) the Owner is not allowed for its calendar 1978 or 1979 taxable year an investment credit under Section 38 and related sections of the Code with respect to any one or more of the Units placed under this Lease in such year of not less than 10% of the Purchase Price with respect to such Unit or Units; or

(ii) the Owner is not allowed the benefit of current deductions for depreciation, commencing with its calendar 1978 or 1979 taxable year, on any one or more of the Units placed under this Lease in such year under Section 167(a) of the Code (x) computed pursuant to any method of depreciation authorized by Section 167(b)(2) or (3) of the Code and pursuant to the asset depreciation range system of Section 167(m) of the Code and Section 1.167(a)-11 of the income tax regulations, (y) computed on the basis (A) of a net salvage value of zero, (B) that the basis of such Unit or Units under Section 167(g) of the Code is not less than the Purchase Price with respect to such Unit or Units, and (C) that such Unit or Units have an asset depreciation period of 12 years, and (z) determined on the basis of the "half-year convention" of Section 1.167(a)-11(c)(2)(iii) of the income tax regulations with respect to Units placed under this Lease in 1978 and on the basis of the "modified half-year convention" of Section 1.167(a)-11(c)(2)(ii) of the income tax regulations with respect to Units placed under this Lease in 1979; or

(iii) the Owner is not allowed the benefit of current deductions under Section 163 of the Code for interest payable under the CSA; or

(iv) any investment credits or deductions for depreciation with respect to any one or more of the Units are recaptured in whole or in part pursuant to Section 47 or Section 1245 of the Code or any successor provision or provisions thereto; or

(v) any amount includible in the gross income of the Owner with respect to any one or more of the Units or any deduction allowable to the Owner with respect to such Unit or Units or with respect to any interest payable under the CSA shall be treated as derived from, or allocable to, sources outside the United States; or

(vi) any amount is included, at any time prior to the end of the term of this Lease (including any renewal terms) in the gross income of the Owner as a result of any repair, improvement, alteration, modification or addition (including replacement of parts) to such Unit or Units made by the Lessee (herein called a "Capital Expenditure");

(any such failure to allow, such recapture, such treatment of income or deductions as derived from or allocable to sources without the United States, or such inclusion in gross income as a result of a Capital Expenditure being herein called a "Loss"), then, subject to paragraph (b) of this § 16, the Lessee shall pay to the Owner as an indemnity the amount set forth in paragraph (d) of this § 16 at the time or times set forth therein.

(b) Indemnification and Exceptions. The Lessee shall be required to indemnify the Owner with respect to any Loss if and only in the event that such Loss results from:

(A) a Loss described in clause (i) or (ii) of paragraph (a) of this § 16, if because of acts or failures to act of the Lessee or either Builder or their respective officers, employees or agents such Loss results from the use of a Unit by any person so as to preclude the "original use of such property" within the meaning of Section 48(b) or 167(c)(2) of the Code from commencing with the Owner;

(B) the Lessee's use of a Unit or Units in such a manner as to result in a Loss described in clause (iv) or (v) of paragraph (a) of this § 16;

(C) a Capital Expenditure; or

(D) any other act, or failure to act, at any time, by the Lessee or any of its officers, employees or agents (including, without limitation, any act, or failure to act, in respect of the income tax returns of the Lessee insofar as they relate to the transactions contemplated by this Lease), it being understood that this clause (D) shall not apply to any Casualty Occurrence or Termination.

(c) Proceedings. If at the conclusion of any audit the Owner receives a preliminary or "30 day" letter from the Internal Revenue Service proposing an adjustment in any item that, if agreed to by the Owner, would result in a Loss with respect to which the Lessee would be required to indemnify the Owner pursuant to this § 16, the Owner shall promptly notify the Lessee of such proposed adjustment and shall furnish to the Lessee a statement describing such Loss in reasonable detail. If requested to do so by the Lessee, within 20 days after receipt of such statement, the Owner shall promptly request from Messrs. Donovan Leisure Newton & Irvine, or such other independent tax counsel as may be selected by the Owner and approved by the Lessee (the "Special Tax Counsel"), their opinion as to whether there is a meritorious basis for contesting such proposed adjustment. If the opinion is to the effect that there is a meritorious basis for contesting such proposed adjustment, the Owner shall contest such proposed adjustment beyond the level of the Internal Revenue Service auditing agent by such administrative proceedings, if any, as may be determined by the Owner in its sole discretion. Upon the conclusion of such administrative proceedings, if any, the Owner shall promptly notify the Lessee of the final adjustment proposed by the Internal Revenue Service and, if the Owner receives within 30 days after such notice a written request to do so from the Lessee, the Owner shall contest such final adjustment in a court of competent jurisdiction. If the Lessee requests the Owner to appeal the decision of such a court or of any intermediate appellate court, the Owner shall promptly request from Special Tax Counsel their opinion as to whether there is a meritorious basis for appealing such decision. If the opinion is to the effect that there is a meritorious basis for appealing such decision, the Owner shall appeal such decision. The Owner, in its sole discretion, shall determine the initial and any appellate court and shall determine whether the proceedings shall be for redetermination of the deficiency proposed to be assessed by the Internal Revenue Service or for refund of taxes paid based on such

deficiency. The Owner shall not be required to take any action as set forth in this paragraph (c) unless and until the Lessee shall have agreed to indemnify the Owner in a manner satisfactory to it for any Loss that results from an adverse determination with respect to the proposed adjustment and shall have agreed to pay to the Owner on demand all reasonable out-of-pocket costs and expenses, including without limitation attorneys' fees and expenses incurred by it in connection with the taking of such action. If the Owner elects to pay taxes based on a proposed deficiency and sue for a refund thereof, and if the proposed deficiency would be a Loss with respect to which the Lessee would be required to indemnify the Owner, then the Lessee shall pay to the Owner on demand the amount of such taxes and interest thereon which the Owner shall have paid, and if the Owner subsequently receives a refund of all or any part of such taxes and interest, it shall promptly pay to the Lessee the amount of such refunded taxes and interest plus the amount of any interest received by the Owner from the United States Government with respect to such refunded taxes and interest. Notwithstanding anything to the contrary contained in this paragraph (c), the Owner may at any time, whether before or after commencing to take any action with respect to a proposed adjustment, decline to take any further action with respect thereto, provided that, if the Lessee has properly requested such action pursuant to this paragraph (c), the Owner notifies the Lessee that it waives its right to any indemnity with respect to any Loss that will result from acceptance of such proposed adjustment.

(d) Amount and Time of Payment of Indemnity. The amount of indemnity payable by the Lessee pursuant to this § 16 with respect to a Loss shall be such amount as will result, in the Owner's reasonable judgment, in preserving for the Owner both the after-tax rate of return and the after-tax cash flow that would have been realized by the Owner if such Loss had not occurred, based on the rates of Federal, state and local taxes on, based on, or measured by, net income in effect from time to time. The amount of such payment of indemnity shall reflect (A) the amount of interest, additions to tax and penalties payable by the Owner with respect to such Loss, (B) the amount of Federal, state and local taxes on, based on, or measured by, net income (at the rates in effect from time to time), interest, additions to tax and penalties incurred by the Owner as a result of the receipt of such indemnity payment, and (C) any amount paid by the Lessee to the Owner pursuant to the next-to-last sentence of paragraph (c) of this § 16 which has not been repaid by

the Owner to the Lessee pursuant to such sentence. The Owner shall furnish the Lessee with a notice setting forth in reasonable detail the computations and methods used in computing such amount of indemnity.

In determining the amount of indemnity payable by the Lessee pursuant to this § 16 with respect to a Loss which results from a Capital Expenditure, there shall be taken into account any investment credits and depreciation deductions to which the Owner is or expects to be entitled with respect to such Capital Expenditure in the year in which the Capital Expenditure is made and in subsequent years, but if any such investment credits or depreciation deductions are subsequently disallowed, recaptured or treated as derived from or allocable to sources outside the United States, such disallowance, recapture or allocation shall be treated as a Loss described in clause (i), (ii), (iv) or (v) of paragraph (a) of this § 16, as the case may be.

The Lessee's obligation to pay any indemnity payable pursuant to this § 16 with respect to a Loss shall become unconditional (1) in the case of a Loss that is required to be reflected on a tax return of the Owner, 30 days after the date such tax return is filed; (2) in the case of a Loss that results from a proposed adjustment of the Internal Revenue Service that is not contested pursuant to paragraph (c) of this § 16, 30 days after the Lessee's receipt of the statement referred to in the first sentence of paragraph (c) of this § 16; and (3) in the case of a Loss that results from a proposed adjustment of the Internal Revenue Service that is contested pursuant to paragraph (c) of this § 16, 30 days after the day on which such contest is finally concluded.

The Lessee shall pay to the Owner a lump sum indemnity at the time its obligation to pay indemnity pursuant to this § 16 becomes unconditional, (A) with respect to a Loss described in clause (i) of paragraph (a) of this § 16, and (B) with respect to any other Loss, if the Lessee's obligation to pay indemnity pursuant to this § 16 becomes unconditional on or after the termination of this Lease. Any other indemnity payable pursuant to this § 16 shall be structured as level future rent increases, and the Lessee shall commence payment of such increased rent on the first rental payment date after Lessee's obligation to pay indemnity pursuant to this § 16 becomes unconditional. The amount of rental

resulting from any one Loss shall be adjusted from time to time for each change in the Code and the income tax regulations (including, without limitation, tax rates) which affects the Owner's net after-tax rate of return and after-tax cash flow.

(e) Adjustment of Casualty and Termination Values.

In the event that the Lessee shall be required to indemnify the Owner pursuant to this § 16 with respect to a Loss relating to a Unit or Units, the Casualty and Termination Value of such Unit or Units shall be appropriately reduced to reflect the reduction, if any, in taxes that will be payable by the Owner with respect to such Unit or Units upon a Casualty Occurrence or Termination with respect thereto; provided, however, that such Casualty and Termination Values shall not be reduced below the amounts required to satisfy the obligations of the Lessor under the CSA.

(f) Definition of Owner. For purposes of this § 16, the term "Owner" shall include any affiliated group, within the meaning of section 1504 of the Code, of which the Owner is a member, if consolidated returns are filed for such affiliated group for Federal income tax purposes.

(g) All payments of indemnity made pursuant to this § 16, whether payable in a lump sum or in the form of increases in future rental payments, shall be made by the Lessee directly to the Owner by transfer of immediately available funds to the account of the Owner specified in paragraph (c) of Section 2.01 of the Trust Agreement or to such other account or in such other manner as the Owner from time to time shall have identified in written instructions given to the Lessee.

§ 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, interest at a rate per annum equal to 10-3/8% on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 17A. Mileage. During the term of this Lease the Lessee shall receive, insofar as applicable law and regulations allow, all mileage allowances, rentals and/or compensation payable by carriers by reason of the use of any Unit (hereinafter called "Mileage") leased to the Lessee here-

under. It is understood and agreed that if for any reason the Lessor receives any Mileage, then (unless an Event of Default specified in § 10 shall have occurred and be continuing) the Lessor shall promptly remit such Mileage to the Lessee.

§ 18. Notices. Any notice (or report pursuant to § 8 hereof) required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at One Constitution Plaza, Hartford, Connecticut 06115, Attention of Corporate Trust Department; and

(b) if to the Lessee, at P. O. Box 1219R, Morristown, New Jersey 07960, Attention of Treasurer,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at One Madison Avenue, New York, New York 10010, Attention of Treasurer, and to the Owner at 2700 Sanders Road, Prospect Heights, Illinois 60070, Attention of Carl W. Giessel, Vice President.

§ 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Except for the Participation Agreement and the Trust Agreement, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee and, so long as the CSA Indebtedness or any other obligation of the Lessor under the CSA remains outstanding and if such variation, modification or waiver shall materially affect the interests of the Vendor, approved by the Vendor.

§ 20. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the assignment hereof to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 22. Definitions. Whenever the term "Lessor" is used in this Lease, it shall also include the Owner and any assignee of the Owner and, where the context so requires (including but not limited to certain of the provisions of § 6 hereof), shall, except for purposes of any assignment of the "Lessor's" rights under this Lease, refer only to the Owner or such assignee of the Owner.

§ 23. Concerning the Lessor. Each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal warranties, representations, undertakings and agreements by The Connecticut Bank and Trust Company, or for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate, as such term is used in the Trust Agreement, and this Lease is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for its wilful misconduct or gross negligence, or against the Owner on account of any warranty, representation, undertaking or agreement herein of the Lessor or the Owner, either expressed or implied, all such personal liability (except as aforesaid),

if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

ALLIED CHEMICAL CORPORATION

by

[Corporate Seal]

W. H. Brown
Vice President

Attest:

V. J. Dutton
Secretary

THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee as aforesaid,

by

[Corporate Seal]

[Signature]
Authorized Officer

Attest:

[Signature]
Authorized Officer

STATE OF NEW YORK,)
) ss.:
 COUNTY OF NEW YORK,)

On this 1st day of December 1978, before me personally appeared Walter H. Sykes, to me personally known, who, being by me duly sworn, says that he is a Vice President of ALLIED CHEMICAL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Margaret Guido
 Notary Public
 MARGARET GUIDO
 Notary Public, State of New York
 No. 24-4656270
 Qualified in Kings County
 Certificate Filed in New York County
 Commission Expires March 30, 1979

[Notarial Seal]

My Commission expires

STATE OF NEW YORK,)
) ss.:
 COUNTY OF NEW YORK,)

On this 1st day of December 1978, before me personally appeared DONALD E. SMITH, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was a free act and deed of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand.

Nancy Sanseverino
 Notary Public

[Notarial Seal]

My Commission expires

NANCY SANSEVERINO
 Notary Public, State of New York
 No. 24-4658464
 Qualified in Kings County
 Certificate Filed in New York County
 Commission Expires March 30, 1979

SCHEDULE 1 to LEASE

<u>Builder</u>	<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Road Numbers (Inclusive)</u>	<u>Assumed Time and Place of Delivery</u>
Pullman Incorporated (Pullman Standard Division)	100-ton Covered Hopper with gravity outlet gates, trough hatches (Soda Ash Unit)	LO	See Item 3 of Annex A to the CSA	Butler, Pa.	550	\$37,943*	\$20,868,650	ACTX 944000- 944549	May-June 1979 at Builder's Plant
ACF Industries, Incorporated	100-ton Covered Hopper with gravity outlet gates, round hatches (Ammonium Sulfate Unit)	LO	See Item 3 of Annex A to the CSA	Huntington, W. Va.	50	37,190*	1,859,500	ACTX 944800- 944849	February 1979 at Builder's Plant
ACF Industries, Incorporated	100-ton Covered Hopper with gravity outlet gates, trough hatches (Soda Ash Unit)	LO	See Item 3 of Annex A to the CSA	Huntington, W. Va.	50	40,641*	2,032,050	ACTX 944550- 944599	June 1979 at Builder's Plant

* Includes Additional Costs (inspection and engineering costs) not to be in excess of \$1000 and, in the case of units built by ACF, escalation costs to the assumed time of delivery, pursuant to the applicable Purchase Orders referred to in Item 3 of Annex A to the CSA.

Builder	Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Unit Base Price	Total Base Price	Road Numbers (Inclusive)	Assumed Time and Place of Delivery
ACF Industries Incorporated	100-ton Covered Hopper with pneumatic outlet gates, round hatches (Lined HDPE Unit)	LO	See Item 3 of Annex A to the CSA	Huntington, W. Va.	14	\$37,252**	\$ 541,128	ACTX 945611- 945623	December, 1978 at Builder's Plant
ACF Industries Incorporated	100-ton Covered Hopper with pneumatic outlet gates, round hatches (Lined HDPE Unit)	LO	See Item 3 of Annex A to the CSA	Milton, Pa.	18	37,252** 464	695,736 699,552	ACTX 945625- 945642 ACTX 945626- 945674 and 945622	December, 1978 at Builder's Plant
ACF Industries Incorporated	100-ton Covered Hopper with pneumatic outlet gates, round hatches (Lined HDPE Unit)	LO	See Item 3 of Annex A to the CSA	Milton Pa.	32	37,464**	1,243,648	ACTX 945643- 945674	January, 1979 at Builder's Plant

\$ ~~27,240,712~~

27,244,528

* Includes Additional Costs (inspection and engineering costs) not to be in excess of \$1000 and, in the case of units built by ACF, escalation costs to the assumed time of delivery, pursuant to the applicable Purchase Orders referred to in Item 3 of Annex A to the CSA.

** In addition to unit base price, unit Purchase Price includes Lining Costs not to be in excess of \$1400.

SCHEDULE 2 TO LEASE
CASUALTY VALUES

<u>Payment Date</u>	<u>Percentage of Purchase Price</u>
1/2/1980	110.6838%
7/2/1980	103.7820
1/2/1981	104.8201
7/2/1981	105.6033
1/2/1982	106.1822
7/2/1982	106.5363
1/2/1983	99.9830
7/2/1983	99.9272
1/2/1984	99.6872
7/2/1984	99.2433
1/2/1985	91.9145
7/2/1985	91.1068
1/2/1986	90.1448
7/2/1986	89.0366
1/2/1987	81.1252
7/2/1987	79.8139
1/2/1988	78.4171
7/2/1988	76.9132
1/2/1989	75.3289
7/2/1989	73.6427
1/2/1990	71.8814
7/2/1990	70.0236
1/2/1991	68.0954
7/2/1991	66.0858
1/2/1992	63.9884
7/2/1992	61.8283
1/2/1993	59.6033
7/2/1993	57.3110
1/2/1994	54.9913
7/2/1994	52.6592
1/2/1995	50.3185
7/2/1995	47.9732
1/2/1996	45.6277
7/2/1996	43.2869
1/2/1997	40.9559
7/2/1997	38.6406
1/2/1998	36.3472
7/2/1998	34.0824
1/2/1999	31.8360
7/2/1999	29.4905
1/2/2000 and during storage period	26.0000

SCHEDULE 3 TO LEASE
TERMINATION VALUES

<u>Payment Date</u>	<u>Percentage of Purchase Price</u>
1/2/1990	71.4857
7/2/1990	69.6209
1/2/1991	67.6856
7/2/1991	65.6687
1/2/1992	63.5639
7/2/1992	61.3963
1/2/1993	59.1637
7/2/1993	56.8636
1/2/1994	54.5230
7/2/1994	52.1671
1/2/1995	49.7992
7/2/1995	47.4230
1/2/1996	45.0425
7/2/1996	42.6622
1/2/1997	40.2868
7/2/1997	37.9216
1/2/1998	35.5724
7/2/1998	33.2454
1/2/1999	30.9305
7/2/1999	28.5157
1/2/2000	25.0000